



General Assembly

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Amendment

LCO No. 7878

SB0097807878SD0

Offered by:

SEN. MUSTO, 22nd Dist.

REP. JUTILA, 37th Dist.

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To: Subst. Senate Bill No. 978

File No. 608

Cal. No. 442

***"AN ACT CONCERNING SUBCONTRACTOR PREQUALIFICATION
AND CLASSIFICATION THRESHOLDS AND INCREASING THE
THRESHOLD FOR REQUIRING COMPETITIVE BIDDING OF
PUBLIC WORKS PROJECTS."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsections (a) and (b) of section 4b-91 of the general
4 statutes are repealed and the following is substituted in lieu thereof
5 (*Effective from passage*):

6 (a) [Every] (1) As used in this section, "prequalification
7 classification" means the prequalification classifications established by
8 the Commissioner of Administrative Services pursuant to section 4a-
9 100, "public agency" has the same meaning as provided in section 1-
10 200 and "awarding authority" means the Commissioner of
11 Construction Services, except "awarding authority" means (A) the Joint

12 Committee on Legislative Management of the General Assembly, in
13 the case of a contract for the construction of or work on a building or
14 other public work under the supervision and control of the joint
15 committee, or (B) the constituent unit, in the case of a contract for the
16 construction of or work on a building or other public work under the
17 supervision and control of one of the constituent units of the state
18 system of higher education.

19 (2) Except as provided in subdivision (3) of this subsection, every
20 contract for the construction, reconstruction, alteration, remodeling,
21 repair or demolition of any public building or any other public work
22 by the state [except a public highway or bridge project or any other
23 construction project administered by the Department of
24 Transportation, which] that is estimated to cost more than five
25 hundred thousand dollars, [except a contract awarded by the
26 Commissioner of Construction Services for (1) a community court
27 project, as defined in subsection (j) of section 4b-55, (2) the downtown
28 Hartford higher education center project, as defined in subsection (l) of
29 section 4b-55, (3) a correctional facility project, as defined in subsection
30 (m) of section 4b-55, (4) a juvenile detention center project, as defined
31 in subsection (n) of section 4b-55, or (5) a student residential facility for
32 the Connecticut State University System that is a priority higher
33 education facility project, as defined in subsection (f) of section 4b-55,]
34 shall be awarded to the lowest responsible and qualified general
35 bidder who is prequalified pursuant to section 4a-100 on the basis of
36 competitive bids in accordance with the procedures set forth in this
37 chapter, after the [Commissioner of Construction Services or, in the
38 case of a contract for the construction of or work on a building or other
39 public work under the supervision and control of the Joint Committee
40 on Legislative Management of the General Assembly, the joint
41 committee or, in the case of a contract for the construction of or work
42 on a building or other public work under the supervision and control
43 of one of the constituent units of the state system of higher education,
44 the constituent unit,] awarding authority has invited such bids by
45 notice posted on the State Contracting Portal. The awarding authority

46 shall indicate the prequalification classification required for the
47 contract in such notice.

48 (3) The provisions of subdivision (2) of this subsection shall not
49 apply to (A) a public highway or bridge project or any other
50 construction project administered by the Department of
51 Transportation, or (B) a contract awarded by the Commissioner of
52 Construction Services for (i) any public building or other public works
53 project administered by the Department of Construction Services that
54 is estimated to cost more than five hundred thousand dollars but less
55 than one and one-half million dollars, (ii) a community court project,
56 as defined in subsection (j) of section 4b-55, (iii) the downtown
57 Hartford higher education center project, as defined in subsection (l) of
58 section 4b-55, (iv) a correctional facility project, as defined in
59 subsection (m) of section 4b-55, (v) a juvenile detention center project,
60 as defined in subsection (n) of section 4b-55, or (vi) a student
61 residential facility for the Connecticut State University System that is a
62 priority higher education facility project, as defined in subsection (f) of
63 section 4b-55.

64 (4) Every contract for the construction, reconstruction, alteration,
65 remodeling, repair or demolition of any public building or any other
66 public work by a public agency that is paid for, in whole or in part,
67 with state funds and that is estimated to cost more than five hundred
68 thousand dollars [, except a public highway or bridge project or any
69 other construction project administered by the Department of
70 Transportation,] shall be awarded to a bidder that is prequalified
71 pursuant to section 4a-100 after the public agency has invited such bids
72 by notice posted on the State Contracting Portal, except for (A) a public
73 highway or bridge project or any other construction project
74 administered by the Department of Transportation, or (B) any public
75 building or other public works project administered by the
76 Department of Construction Services that is estimated to cost more
77 than five hundred thousand dollars but less than one and one-half
78 million dollars. The [Commissioner of Construction Services, the joint

79 committee, the constituent unit] awarding authority or the public
80 agency, as the case may be, shall indicate the prequalification
81 classification required for the contract in such notice. [As used in this
82 section, "prequalification classification" means the prequalification
83 classifications established by the Commissioner of Administrative
84 Services pursuant to section 4a-100. As used in this section, "public
85 agency" means public agency, as defined in section 1-200.]

86 (5) Every contract for the construction, reconstruction, alteration,
87 remodeling, repair or demolition of any public building or other public
88 works project administered by the Department of Construction
89 Services that is estimated to cost more than five hundred thousand
90 dollars but less than one and one-half million dollars, shall be
91 awarded, where practicable, through a process of sealed bidding
92 developed by the Commissioner of Construction Services. The process
93 to be developed by the commissioner shall be different from the
94 process required under this chapter and such process shall include, but
95 not be limited to, the solicitation of bids from (A) at least three
96 contractors from a list of preselected contractors, or (B) all available
97 contractors from a list of preselected contractors if fewer than three are
98 available, who are deemed by the commissioner to possess the skill,
99 ability and integrity necessary to perform the specific scope of work
100 for the purpose of providing construction services to the state.

101 (b) The [Commissioner of Construction Services, the joint committee
102 or the constituent unit, as the case may be,] awarding authority shall
103 determine the manner of submission and the conditions and
104 requirements of [such] bids invited under this section, and the time
105 within which the bids shall be submitted, consistent with the
106 provisions of this section and sections [4b-91] 4b-92 to 4b-96, inclusive.
107 Such award shall be made not later than ninety days after the opening
108 of such bids. If the general bidder selected as the general contractor
109 fails to perform the general contractor's agreement to execute a
110 contract in accordance with the terms of the general contractor's
111 general bid and furnish a performance bond and also a labor and

112 materials or payment bond to the amount specified in the general bid
113 form, an award shall be made to the next lowest responsible and
114 qualified general bidder, or, in the case of a contract awarded under
115 subdivision (5) of subsection (a) of this section, to another qualified
116 preselected contractor. No employee of the Department of
117 Construction Services, the joint committee or a constituent unit with
118 decision-making authority concerning the award of a contract and no
119 public official, as defined in section 1-79, may communicate with any
120 bidder prior to the award of the contract if the communication results
121 in the bidder receiving information about the contract that is not
122 available to other bidders, except that if the lowest responsible and
123 qualified bidder's price submitted is in excess of funds available to
124 make an award, the [Commissioner of Construction Services, the Joint
125 Committee on Legislative Management or the constituent unit, as the
126 case may be,] awarding authority may negotiate with such bidder and
127 award the contract on the basis of the funds available, without change
128 in the contract specifications, plans and other requirements. If the
129 award of a contract on said basis is refused by such bidder, the
130 [Commissioner of Construction Services, the Joint Committee on
131 Legislative Management or the constituent unit, as the case may be,]
132 awarding authority may negotiate with other contractors who
133 submitted bids in ascending order of bid prices without change in the
134 contract, specifications, plans and other requirements. In the event of
135 negotiation with general bidders as provided in this section, the
136 general bidder involved may negotiate with subcontractors on the
137 same basis, provided such general bidder shall negotiate only with
138 subcontractors named on such general bidder's general bid form.

139 Sec. 2. Subsection (j) of section 4b-91 of the general statutes is
140 repealed and the following is substituted in lieu thereof (*Effective from*
141 *passage*):

142 (j) [On and after October 5, 2009, no] No person whose subcontract
143 exceeds five hundred thousand dollars in value may perform work as
144 a subcontractor on a project for the construction, reconstruction,

145 alteration, remodeling, repair or demolition of any public building or
146 any other public work by the state or a municipality, except a public
147 highway or bridge project or any other construction project
148 administered by the Department of Transportation, which project is
149 estimated to cost more than five hundred thousand dollars and is paid
150 for, in whole or in part, with state funds, unless, at the time of the bid
151 submission, the person is prequalified in accordance with section 4a-
152 100. The provisions of this subsection shall not apply to a project
153 described in subdivision (2) of subsection (a) of this section.

154 Sec. 3. Subsection (a) of section 4b-24b of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective from*
156 *passage*):

157 (a) Whenever realty uses designed uniquely for state use and for
158 periods over five years are concerned, the Commissioner of
159 Construction Services shall, whenever practicable, attempt to construct
160 on state-owned land. Whenever the Commissioner of Construction
161 Services has established specific plans and specifications for new
162 construction on state land or new construction for sale to the state: (1)
163 If it appears to the commissioner that the cost of the project shall be
164 less than [five hundred thousand] one and one-half million dollars,
165 contracts shall be made, where practicable, through a process of sealed
166 bidding as provided in section 4b-91, as amended by this act, relating
167 to projects in excess of [five hundred thousand] one and one-half
168 million dollars; (2) if it appears to the commissioner that the space
169 needs of the requesting agency are less than five thousand square feet,
170 the commissioner shall, whenever practicable, carry on advertising, in
171 accordance with the provisions of section 4b-34 relating to projects in
172 excess of five thousand square feet, in order to allow an equal
173 opportunity for third parties to do business with the state without
174 regard to political affiliation, political contributions or relationships
175 with persons in state, federal or local governmental positions.

176 Sec. 4. Section 4b-52 of the general statutes is repealed and the
177 following is substituted in lieu thereof (*Effective from passage*):

178 (a) (1) No repairs, alterations or additions involving expense to the
179 state of five hundred thousand dollars or less or, in the case of repairs,
180 alterations or additions to a building rented or occupied by the Judicial
181 Branch, one million two hundred fifty thousand dollars or less or, in
182 the case of repairs, alterations or additions to a building rented or
183 occupied by a constituent unit of the state system of higher education,
184 two million dollars or less, shall be made to any state building or
185 premises occupied by any state officer, department, institution, board,
186 commission or council of the state government and no contract for any
187 construction, repairs, alteration or addition shall be entered into
188 without the prior approval of the Commissioner of Construction
189 Services, except repairs, alterations or additions to a building under
190 the supervision and control of the Joint Committee on Legislative
191 Management and repairs, alterations or additions to a building under
192 the supervision of The University of Connecticut. Repairs, alterations
193 or additions which are made pursuant to such approval of the
194 Commissioner of Construction Services shall conform to all guidelines
195 and procedures established by the Department of Construction
196 Services for agency-administered projects. (2) Notwithstanding the
197 provisions of subdivision (1) of this subsection, repairs, alterations or
198 additions involving expense to the state of five hundred thousand
199 dollars or less may be made to any state building or premises under
200 the supervision of the Office of the Chief Court Administrator or a
201 constituent unit of the state system of higher education, under the
202 terms of section 4b-11, and any contract for any such construction,
203 repairs or alteration may be entered into by the Office of the Chief
204 Court Administrator or a constituent unit of the state system of higher
205 education without the approval of the Commissioner of Construction
206 Services.

207 (b) Except as provided in this section, no repairs, alterations or
208 additions involving an expense to the state of more than five hundred
209 thousand dollars or, in the case of [repairs, alterations or additions to a
210 building rented or occupied by the Judicial Branch] any repair,
211 alteration or addition administered by the Department of Construction

212 Services, more than one and one-half million [two hundred fifty
213 thousand] dollars, [or, in the case of repairs, alterations or additions to
214 a building rented or occupied by a constituent unit of the state system
215 of higher education, more than two million dollars,] shall be made to
216 any state building or premises occupied by any state officer,
217 department, institution, board, commission or council of the state
218 government, nor shall any contract for any construction, repairs,
219 alteration or addition be entered into, until the Commissioner of
220 Construction Services or, in the case of the construction or repairs,
221 alterations or additions to a building under the supervision and
222 control of the Joint Committee on Legislative Management of the
223 General Assembly, said joint committee or, in the case of construction,
224 repairs, alterations or additions to a building involving expenditures in
225 excess of five hundred thousand dollars but not more than one million
226 two hundred fifty thousand dollars under the supervision and control
227 of the Judicial Branch, said Judicial Branch or, in the case of the
228 construction, repairs, alterations or additions to a building involving
229 expenditures in excess of five hundred thousand dollars but not more
230 than two million dollars under the supervision and control of one of
231 the constituent units of higher education, the constituent unit, has
232 invited bids thereon and awarded a contract thereon, in accordance
233 with the provisions of sections 4b-91 to 4b-96, inclusive, as amended
234 by this act. The Commissioner of Construction Services, with the
235 approval of the authority having the supervision of state employees or
236 the custody of inmates of state institutions, without the necessity of
237 bids, may employ such employees or inmates and purchase or furnish
238 the necessary materials for the construction, erection, alteration, repair
239 or enlargement of any such state building or premises occupied by any
240 state officer, department, institution, board, commission or council of
241 the state government.

242 (c) Whenever the Commissioner of Construction Services declares
243 that an emergency condition exists at any state facility, other than a
244 building under the supervision and control of the Joint Committee on
245 Legislative Management, and that the condition would adversely

246 affect public safety or the proper conduct of essential state government
247 operations, or said joint committee declares that such an emergency
248 exists at a building under its supervision and control, the
249 commissioner or the joint committee may employ such assistance as
250 may be required to restore facilities under their control and
251 management, or the commissioner may so act upon the request of a
252 state agency, to restore facilities under the control and management of
253 such agency, without inviting bids as required in subsection (b) of this
254 section. The commissioner shall take no action requiring the
255 expenditure of more than [five hundred thousand] one and one-half
256 million dollars to restore any facility under this subsection (1) without
257 the written consent of the Governor, and (2) until the commissioner
258 has certified to the joint committee of the General Assembly having
259 cognizance of matters relating to legislative management that the
260 project is of such an emergency nature that an exception to subsection
261 (b) of this section is required. Such certification shall include input
262 from all affected agencies, detail the need for the exception and include
263 any relevant documentation. The provisions of this subsection shall
264 not apply if any person is obligated under the terms of an existing
265 contract with the state to render such assistance. The annual report of
266 the commissioner shall include a detailed statement of all expenditures
267 made under this subsection.

268 (d) The Commissioner of Administrative Services may, during the
269 term of a lease of a building or premises occupied by any state offices,
270 department, institution, board, commission or council of the state
271 government, (1) renegotiate the lease in order to enable the lessor to
272 make necessary alterations or additions up to a maximum amount of
273 five hundred thousand dollars, in consultation with the Commissioner
274 of Construction Services and subject to the approval of the State
275 Properties Review Board, or (2) require that a security audit be
276 conducted for such building or premises and, if necessary, renegotiate
277 the lease in order to enable the lessor to make necessary alterations or
278 additions to bring the building or premises into compliance with the
279 security standards for state agencies established under section 4b-132.

280 Alterations or additions under subdivision (2) of this subsection shall
 281 not be subject to the spending limit in subdivision (1) of this
 282 subsection, and a renegotiated lease under said subdivision (2) shall be
 283 subject to the approval of the State Properties Review Board, provided
 284 such approval requirement shall not compromise the security
 285 requirements of chapter 60a and this section. The commissioner shall
 286 determine the manner of submission, conditions and requirements of
 287 bids and awards made for alterations or additions under this
 288 subsection. No lease shall be renegotiated under this subsection for a
 289 term less than five years. As used in this subsection, "security" and
 290 "security audit" have the meanings assigned to such terms in section
 291 4b-130."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4b-91(a) and (b)
Sec. 2	<i>from passage</i>	4b-91(j)
Sec. 3	<i>from passage</i>	4b-24b(a)
Sec. 4	<i>from passage</i>	4b-52